We worked well with the two managers of the bill. This deals with concurrent receipts. This amendment is offered on my behalf and that of Senator DORGAN. I understand, with the strict rules we are working under this year, that this amendment may not be relevant according to the rule now before the Senate.

I ask the Chair to rule on whether or not this amendment is relevant.

The PRESIDING OFFICER. In the opinion of the Chair, the amendment is not relevant.

Mr. REID. I accept the ruling of the Chair. I am disappointed. This is a very important issue. As I say, Senator DORGAN and I feel very strongly about this, and the two managers of the bill have been most generous in their work in conference. In the past, we have gotten nothing in the House; everything we have done has been in the Senate.

I will look for another vehicle to move this forward in the future.

Mr. WARNER. I thank the distinguished leader. For many years now the Senator has taken strong leadership on this issue. At some point in time, the Senate and Congress as a whole will have to face this issue. I recognize that this is not a relevant amendment pursuant to the consent agreement and we cannot proceed.

Mr. LEVIN. Mr. President, let me add my thanks to the Senator from Nevada for two things: First, for his faithful commitment to this issue. Currently, we see it as an issue of the Senator from Nevada and the Senator from North Dakota and a number of other Senators who have joined to try to bring equity in this area. We made at least some progress; it is because of their energy we have made the progress we have.

Second, I thank him for his acceptance of the ruling of the Chair. It is very important he does that because all Members need to accept the rulings of the Chair in the absence, it seems to me, of some overwhelming unusual precedent that would allow us to try to overrule the Chair. The whip's, the Democratic whip's approach is one which I think reflects the best traditions and the best instincts of this body. I thank him.

It also helped Senator WARNER and I to complete this bill within the parameters of the unanimous consent agreement.

Mr. REID. I ask my amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 697) was withdrawn.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTROLLING FEDERAL SPENDING

Mr. NICKLES. Mr. President, the FY2004 budget resolution adopted last month includes a provision to uncover waste, fraud and abuse in Federal Government spending. Today marks the beginning of a transparent and deliberative process that will be undertaken by Committees in the House and Senate to control Federal spending.

Specifically, the budget resolution requires the Chairman of the Committee on the Budget in both the House and Senate to place in the CONGRESSIONAL RECORD specified levels of savings for each authorizing committee. Chairman NUSSLE and I have developed a joint set of targets that requests each authorizing committee to report back with recommended savings proposals amounting to 1 percent of the committee's total mandatory spending. I will work with Senate committees to ensure that the savings target meaningfully represents the opportunities to find improvements in the programs under each committee's jurisdiction.

Pursuant to section 301(b) of H. Con. Res. 95, I submit the following specified levels of savings for Senate Committees. Given these savings targets, the budget resolution further requires committees to submit, by September 2, 2003, to the Budget Committee their findings that identify changes in law within their jurisdiction that would produce the specified savings. The reports submitted by committees will guide us in the preparation of future budget resolutions and will help us all improve program oversight.

It is my hope that the committees will enthusiastically join Chairman NUSSLE and me in this effort to root out waste, fraud and abuse. As trustees of taxpayer dollars, Members of Congress must insist that limited resources not be squandered. Federal spending has been growing at unsustainable levels. Congress cannot become lax in its duty to perform the necessary oversight on Federal spending.

Often we find that Federal programs—ignored over time—become susceptible to waste, fraud or abuse. For example, according to a General Accounting Office report released in January of this year, Medicaid has been added for the first time to the GAO's high-risk list, ''owing to the program's size, growth, diversity, and fiscal management weaknesses.''

Limited oversight has afforded States and health care providers the opportunity to increase Federal funding inappropriately. States are able to take advantage of funding schemes which supplant State Medicaid dollars with Federal Medicaid dollars by overpaying State-owned facilities and requiring the local government to transfer the excess back to the State. These dollars are then siphoned away from Medicaid patients and often are used for other purposes. Without proper oversight this and other program abuses can persist for years.

Other recent examples of abuse include a finding by the Inspector General of the Department of Education that nearly 23 percent of student loan recipients whose loans were discharged due to disability claims were gainfully employed. Additionally, the Office of Management and Budget has estimated that more than $8 billion in erroneous earned income tax payments are made each year. These situations are unacceptable. The work that the Senate and House will undertake will result in reforms in these and other instances of misspent Federal resources.

Chairman NUSSLE and I have put in place a project specifically designed to draw upon the knowledge and experience of Senate experts in these programs. The savings resulting from this effort will not be arbitrary; they will be developed through sound and thoughtful considerations by those who know the programs best. I look forward to working with all the committee chairmen who will be reporting their findings and am committed to making this a success.

I ask unanimous consent that the above-mentioned spending levels be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SAVINGS FROM 1 PERCENTAGE POINT REDUCTION IN MANDATORY SPENDING BY AUTHORIZING COMMITTEE

[By fiscal year in billions of dollars]

Senate:		2004	2004–08	2004–13
Agriculture, Nutrition and Forestry	BA	−0.603	−3.162	−6.568
	OT	−0.563	−2.982	−6.251
Armed Services	BA	−0.778	−4.201	−9.178
	OT	−0.777	−4.195	−9.165
Banking, Housing, and Urban Affairs	BA	−0.139	−0.719	−1.436
	OT	−0.017	−0.058	−0.092
Commerce, Science, and Transportation	BA	−0.117	−0.601	−1.244
	OT	−0.074	−0.382	−0.807
Energy and Natural Resources	BA	−0.027	−0.118	−0.218
	OT	−0.024	−0.108	−0.201
Environment and Public Works	BA	−0.264	−1.493	−3.018
	OT	−0.023	−0.106	−0.195
Finance	BA	−7.340	−41.323	−98.601
	OT	−7.379	−41.407	−98.735
Foreign Relations	BA	−0.100	−0.599	−1.289
	OT	−0.119	−0.563	−1.181
Governmental Affairs	BA	−0.831	−4.518	−10.042
	OT	−0.816	−4.446	−9.904
Health, Education, Labor and Pensions	BA	−0.080	−0.471	−1.016
	OT	−0.072	−0.433	−0.944
Judiciary	BA	−0.085	−0.324	−0.621
	OT	−0.079	−0.326	−0.618
Veterans' Affairs	BA	−0.342	−1.833	−3.864
	OT	−0.341	−1.827	−3.852
Total	BA	−10.706	−59.362	−137.095
	OT	−10.284	−56.833	−131.945

Note.—Section 301(d) of H. Con. Res. 95 does not include Senate Select Committee on Intelligence, the Committee on Rules and Administration, the Committee on Indian Affairs, and the Committee on Small Business.

UNFAIR RESTRICTIONS ON LEGAL SERVICES CORPORATION

Mr. KENNEDY. Mr. President, many of us are increasingly concerned about the unfair restrictions on non-profit legal services providers under current Federal law who receive both Federal funds and private funds.

In 1996, Congress severely weakened the ability of many legal service providers to represent needy clients.

Under the restrictions enacted that year, organizations that receive funds from the Legal Services Corporation are no longer permitted to use private funds to represent certain categories of low-income clients. The only way these providers now offer assistance to these clients is to set up a separate office that receives no Federal funds. To do so has turned out to be prohibitive for many for many grantees of the corporation.

The restrictions impose high costs on legal services providers and unwarranted governmental interference with their other charitable initiatives, and they undermine the promise of equal justice for their clients.

Often, the results of these restrictions have been devastating. Many faith-based organizations that represent the poor have decided not to accept funds from the corporation, so that they can continue to help low-income clients to meet their basic legal needs. In fact, the administration is now in court defending the law, even though it burdens the use of private philanthropy by grantees of the corporation. If the administration prevails in court, it will have created a legal precedent that jeopardizes the President's faith-based initiatives.

The corporation's grantees should be treated in the same way that all other non-profit organizations, both secular and faith-based, are treated. They should be allowed to use their private funds to alleviate the critical need for legal services. The restrictions are an unjust barrier for the Nation's neediest individuals and families who need our help the most. I urge my colleagues to remove these restrictions and to reopen the doors of justice for those who are unable to afford the legal representation they deserve in protecting their basic rights.

I ask unanimous consent that an article from the Chronicle of Philanthropy earlier this year and an article from the Legal Times last fall on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chronicle of Philanthropy Feb. 20, 2003]

WHITE HOUSE TAKES OPPOSING VIEWS ON CHARITIES

(By Laura K. Abel)

President Bush's Budget for fiscal 2004, submitted to Congress this month, contains millions in federal dollars to help religious groups. That follows his executive order in December in which he commanded sweeping changes he said would ''remove barriers that prevent faith-based and grass-roots groups from doing more to help Americans in need.''

The executive order put in place many of the ideas Mr. Bush has been pressing Congress to pass, but which have been stalled by debate over the propriety of mixing government and religion. The executive order, which allows federally financed charities to display religious icons and follow the tenets of their faith in selecting employees, is almost certain to be challenged in federal court by people seeking to protect firm separation of church and state.

But Mr. Bush has even more to worry about than court action by his political opponents. His own administration is causing plenty of potential trouble by arguing in a New York court to establish a legal precedent that could lead to the unraveling of Mr. Bush's efforts to help religious groups.

The court case at issue involves the Legal Services Corporation, which uses federal funds to provide lawyers in civil cases to people who cannot afford them. The corporation is being sued by nonprofit legal-aid groups that hope to prove that a law Congress passed in 1996, and a regulation issued to carry out that law, are unconstitutional. Under the law and regulation, legal aid programs that receive even a dollar from the Legal Services Corporation are required to separate their government-financed activities from certain privately supported activities in ways that are both impractical and very costly to administer. Among the privately supported activities that must be kept separate: helping asylum seekers who need court protection against abusive spouses, helping victims of predatory lenders testify before their legislatures, and representing children seeking improved public schools.

The regulation the administration is defending requires legal-aid programs to keep those activities physically separate from their government-financed activities. It also limits the ability of legal-aid employees to divide their time between federally supported activities and activities the government won't support.

The result is that the programs' scarce private charitable donations must either be used only for programs that the federal government wants to support or be diverted to establishing separate facilities and employing separate personnel. Though the idea of keeping federally financed and charitably financed activities separate may seem appropriate to some, what it has meant in practice is that for nonprofit legal-aid groups to receive federal funds, they must give up doing some of the things that their clients most need. And foundations and other private donors that want to support legal-aid groups often find that some of the projects they most want to support can't be carried out.

For instance, when South Brooklyn Legal Services received a grant from the New York Foundation to help small groups that provide child care, it wanted to use some of the money to take New York City to court to protect the rights of those providers. The city, which reimburses the child-care providers for their services, had been short-changing them by calculating the reimbursement based on a four-week month rather than on the more accurate 4.3-week month. But because the South Brooklyn group receives some money from the Legal Services Corporation, it could not undertake such a lawsuit even with its money from the New York Foundation. To do so it would have had to set up two separate offices. It didn't have the money to do that, so it had to drop the idea of the lawsuit and instead use its foundation grant only in ways that the federal government allowed.

That is precisely the type of roadblock to charitable giving and nonprofit entrepreneurship that the Bush administration seeks to remove in its efforts to help religious groups. Last month, for instance, the administration said that churches, synagogues, and other houses of worship could obtain federal construction aid so long as at least part of the building was used to provide social services. To be sure, the administration said federal aid couldn't be used to construct sanctuaries or other parts of the building used for worship, but it did not require separate staff members or other administrative approaches to separating the government-subsidized activities from those supported entirely by private sources. And in his executive order, the president allowed organizations to conduct federally financed activities in rooms with religious symbols hanging on the wall, and to permit employees to split time between religious and federally financed activities.

The president's goal is obvious: to avoid requiring nonprofit groups, like the religious ones he wants to help, to operate two entirely separate facilities in which to conduct their federally financed activities and their privately supported ones. If he wants to protect religious groups from having to operate entirely separate sets of facilities, even at the risk of being sued for violating the separation of church and state, why is he willing to impose such a requirement on legal-aid groups that serve the same needy people?

It's not just for consistency's sake that Mr. Bush should change his administration's position in the Legal Services Corporation case. In that case, the legal-aid programs argue that, because the activities they are forced to keep separate constitute ''speech'' protected by the First Amendment to the U.S. Constitution, the government is constitutionally prohibited from imposing a requirement that the activities be kept separate. What's more, they say the government isn't allowed to make those activities more expensive and more complicated unless it has sufficient justification. In its court filings, the government responds that it will seem to be endorsing the work of legal-aid programs unless activities the government supports are clearly separated from the charitably financed legal-aid activities the government does not want to support.

If that argument is upheld by the court, then won't the government be endorsing the views of religious groups unless it requires completely separate operations? To comply with the constitutional mandate not to endorse religion, the government will have to require the same amount of separation between the religious activities of charities and the activities that the federal government supports as it requires for legal-aid programs. Religious groups that receive any federal funds will then need to conduct their religious activities in separate offices, and to maintain tight limits on the ability of employees to split their time between federally financed and religious activities.

If the president really wants his faith-based plan to pass constitutional muster, he should change his strategy on the Legal Services Corporation case now and give legal-aid groups the freedom they deserve.

[From the Legal Times, Sept. 30, 2002]

DRAWING LINES FOR DOLLARS—SCIENTISTS GET FEDERAL AND PRIVATE FUNDING UNDER ONE ROOF. WHY CAN'T LEGAL AID LAWYERS?

(By Laura K. Abel)

No one has ever called the stem cell debate rational or straightforward. But when it comes to understanding how the government tries to control privately funded initiatives—even in seemingly unrelated areas like civil legal aid for the poor—the stem cell debate can be brilliantly illuminating.

In 2001, President George W. Bush warned that ''a fundamental moral line'' prevented the federal government from endorsing or funding stem cell research that would result in ''further destruction of human embryos.'' Based on the president's directive, and on federal policy in place since 1994, scientists working on stem cell research had been compelled to establish two separate laboratories: one for their publicly funded stem cell research, the other for the privately funded stem cell research prohibited by the federal government.

Such duplication is incredibly expensive. Who can afford two sets of laboratory equipment? What scientist wants to squander precious time moving back and forth between labs? What edge in conquering disease is lost when scientists operate in relative isolation from each other, without the benefit of views routinely shared by colleagues occupying the same office space? How many talented scientists avoid the entire field of stem cell research because of these bureaucratic hurdles?

SIDE-BY-SIDE DOLLARS

Recognizing these concerns, this past spring the National Institutes of Health told government-funded scientists that it is OK to conduct privately funded stem cell research alongside their federally funded research, so long as they use rigorous bookkeeping methods to ensure that only private dollars pay for the stem cell experiments. This directive follows governmentwide accounting standards that have been in place for more than a quarter-century.

Lawyers for the poor whose work is financed with both federal and private funding have been paying close attention to the NIH's instructions. In 1996, Congress prohibited these legal aid lawyers from using private funds to engage in a wide range of activities. These activities include representing low-income people in class actions, representing many documented immigrants, representing clients before legislatures and administrative agencies, and many other important activities. The Legal Services Corp., which funnels the federal money to the lawyers . . . order to engage in these activities they must set up physically separate offices that receive no federal funding.

Like the federally funded scientists, lawyers representing the poor have found operating out of two sets of offices to be wasteful, duplicative, and bureaucratic. Ultimately, it is vulnerable clients who suffer the consequences. Just as the forced duplication of research drains resources from efforts to cure diseases, the forced duplication of legal aid programs drains resources needed by low-income women seeking protection from domestic violence, children attempting to secure essential medical treatment, elderly citizens fighting predatory lenders, and farmers struggling to save their land.

Under the current rules, lawyers are forced to pay for two sets of offices, computer systems, and other equipment. Lawyers must spend time commuting between different offices, wasting time that their clients desperately need. And, perhaps most destructive of all is the effect on lawyers conducting class action litigation offering the prospect of relief to substantial numbers of individuals. Those lawyers paid for with private money find it hard to communicate with the lawyers working to meet day-to-day legal needs of individual clients with federal funding, making both sets of lawyers less effective.

Legal aid lawyers and their clients find hope in the NIH's common-sense policy clarification. The federal government wants neither to fund, nor to endorse, forbidden stem cell research. The NIH policy, which reflects cost principles that have been in place since at least the Reagan administration, recognizes that physically separate facilities are not needed to achieve these goals. All that is required is adherence to rigorous bookkeeping practices that follow accepted accounting principles, so that auditors can determine that government funds were not spent on the disallowed activities.

THE SAME SOLUTION

It would seem that Congress should embrace this same solution for its concerns about LSC grantees, allowing the duplication and inefficiencies faced by legal aid to come to a stop. But instead, the government has spent the last five years in federal court, relentlessly resisting a constitutional challenge to the physical-separation requirement for legal aid lawyers.

The government's inconsistent positions in the stem cell research context and in the legal aid context are surprising. The importance of medical research weighs . . . unimpeded with private funding. There are equally strong (if not stronger) policy and constitutional arguments in favor of allowing legal aid lawyers to use their private funding to represent low-income clients who would otherwise have no access to our system of justice.

After all, there is no federal policy against using the class action mechanism. Indeed, Congress and the courts have recognized that class actions can have significant benefits for litigants and for the judicial system. Nor is there a federal policy against providing the representation that helps protect immigrants against exploitation (and in the process assists courts that would otherwise have to expend resources dealing with unrepresented litigants). Nor is there a federal policy against helping low-income individuals educate legislatures about the problems facing their communities. On the contrary, the interests of equal justice for all are better served when legal aid attorneys engage in each of these activities.

This lack of a policy justification for the physical-separation requirement is particularly appalling because the requirement intrudes on the constitutionally protected ability of legal aid lawyers and their clients to associate together in order to enforce the clients' rights. As the Supreme Court has warned, ''Collective activity undertaken to obtain meaningful access to the courts is a fundamental right within the protection of the First Amendment.''

For many thousands of poor people, legal aid offices that receive some federal funding offer the only avenue to justice. And, for many legal aid clients, it is about even more than justice. Like the patients who hope stem cell research will save their lives, they are focused on basic survival: a roof over their heads, escape from a batterer, the ability to buy food and protect their children. By requiring costly physical separation instead of the standard accounting practices that can ensure that federal dollars do not fund certain types of legal aid, Congress and the LSC have severely hobbled legal aid advocates, undermining their efficiency, interrupting their clients' lives, and impeding the goal of equal justice for all. Justice demands that the re-examine this decision.

ASBESTOS REFORM

Mr. HATCH. Mr. President, as everybody knows, I have been working for months—actually perhaps longer than that—on an asbestos reform bill to try to resolve the terrible asbestos problem we have in our society.

I have indicated various deadlines throughout these months which I have set.

I compliment the business community, the insurance community, the union community, and so many other companies that have been involved for their willingness to work with us. I think we are about there.

We have a bill I am going to print in the RECORD this evening so everybody who is interested in this issue can read it and review it because I intend to file a formal bill this Thursday. I would like to have as many cosponsors as I can get on it because it will be the only way we will get this problem solved.

This draft bill is not a formal bill. But I want it to be printed in the RECORD for all to see. It is a very important draft bill. I hope those who are interested will go over it with a fine-toothed comb and get with us over the next 2 days, if there are substantive suggestions they have. We will be happy to look at those.

This is basically what I intend to file as a formal bill this next Thursday. I hope I will have a number of my colleagues on both sides of the floor join with me.

I ask unanimous consent this draft bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Fairness in Asbestos Injury Resolution Act of 2003'' or the ''FAIR Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows: